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(247)

INT 264/1

[Subject]

SUGGESTIONS IN CONNECTION WITH THE CENTRAL INTELLIGENCE AGENCY SECTION OF THE ARMED SERVICES UNIFICATION BILL

1. Civilian versus Military Director It would seem preferable to state that the Director should be chosen "from among civilians or military life by the President, with the advice and consent of the Senate," thus leaving it to the President to decide whether he wished to appoint a civilian or a military Director. The primary problem in this connection is concerned with the continuity of the Director's tenure rather than the break from which the incumbent comes. The present Director has indicated a desire to remain in this position for the duration of his Naval career. However, it would work a definite hardship on a military man if it were necessary for him to retire from the service in assuming this position unless the statute called for a specific term of years for the Director's tenure. Failure to establish such tenure would place the Director at the mercy of those who might desire to oust him for purely political reasons. On the other hand, the question of tenure of office may well have been omitted from the proposed legislation in order that the President might have a free hand in nominating a Director of his own choosing, as he does in the case of other executive positions in the Government. In the early formative stages of the development of this Agency, it may well be considered preferable to have a military Director who is conversant with the problems and personnel of the armed services, on whom so much reliance must be placed for intelligence information and cooperation.

2. The Position of CIA in the Governmental Structure It would appear best to maintain the Central Intelligence Agency in the position that the bill contemplates it will occupy -- that is, under the National Security Council. On purely theoretical grounds, it would, of course, be preferable to report to one individual rather than to a group. However, as a matter of practical operations, it would seem to be best to place it under the Council, so that the Secretaries of State, National Defense, War, Air, and the Navy -- who will be among the prime users of the intelligence produced -- would not have the feeling that the Director is continually skirting them into the back door of the White House. It is felt that working with the Council in the manner contemplated will produce the best cooperation from the Departments concerned.

ST/TT/15

1 of 7

File #98-00610R Box #1 Folder #5

UNCLASSIFIED

UNCLASSIFIED

INT 264/2

The thought that the Central Intelligence Agency should be placed under the Secretary of National Defense is unsound, as it might be construed as placing the Agency within the military establishment, which would in all probability be unsatisfactory to the State Department. This Agency must serve the diplomatic as well as the military and naval arms. This can best be done outside the military establishment. Since it is obliged to serve all, it must be free of the natural bias of an operating Department.

3. Inclusion of Detailed Agency Functions in the Present Bill: It is not felt advisable, as a matter of legislative draftsmanship, to include detailed functions of the Central Intelligence Agency in H.R. 2319. H.R. 2319 is a bill defining of the functions of the centrally established Agency of the Government. The inclusion of detailed duties and powers of this Agency does not seem particularly to be a part of such legislation. It is quite necessary that this Agency have detailed legislation of its own, setting forth its functions, as well as those general authorities which it is felt the Agency should have. These are being included in the draft of an enabling act to be submitted for Congressional approval after the passage of the unification bill.

The fear that the terms of the Executive Order under which the Agency now operates could be changed or broadened by its withdrawal or amendment by the President after the bill becomes law appear to be unfounded. The present bill specifically provides that the functions of the Director and the C.I.A., as set forth in the President's Executive Order of 22 January 1946, (11 Federal Register 1337), are transferred to the new Agency, and therefore are frozen into H.R. 2319, with no possibility of Executive change. No further changes in these functions could be made except by the National Security Council once the bill becomes law. As stated above, the detailed legislation for this Agency, which is urgently needed, should be the subject of a separate enabling act, which will be submitted as soon as the Agency is established by law.

4. Position of the Agency in Connection with Internal Security: The Central Intelligence Agency is limited in its scope to dealing with the foreign intelligence activities of the United States. It should not be and is not concerned in any way with domestic intelligence or internal security functions. Its interest is in intelligence information originating outside the United States. However, if the Congressional Committee feels that additional safeguards are needed, Section 202 of H.R. 2319 might well be amended by the addition of a Section "d", to read substantially in the language of the President's Executive Order, as follows: "No police, law enforcement or internal security functions shall be exercised by the Central Intelligence Agency." Such a provision will be included in any enabling legislation which this Agency shall submit to the Congress.

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